

# SHORELAND ZONING ORDINANCE

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*THIS UNOFFICIAL TABLE OF CONTENTS IS NOT A PART OF THE ORDINANCE AND IS PROVIDED FOR CONVENIENCE ONLY.*

## **SECTION 1. PURPOSES**

The citizens of the Town of Harpswell, through enactment of this Shoreland Zoning Ordinance, commit to preserve and protect the Town of Harpswell's coastal marine heritage. The provisions contained herein are designed and intended to foster the continuation of traditional marine uses and encourage the development of new marine uses to the greatest extent practicable.

In addition, the purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal water; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas of Harpswell.

## **SECTION 2. AUTHORITY**

This Ordinance has been prepared in accordance with the provisions of 38 M.R.S.A. §§ 435-449, as may be amended from time.

## **SECTION 3. APPLICABILITY**

This Ordinance applies to all land areas within two hundred fifty (250) feet, horizontal distance, of the maximum high water line of any great pond; within two hundred fifty (250) feet, horizontal distance, of the highest annual tidal (HAT) of any coastal wetland (see definitions addendum, Wetland – Coastal Wetland); within two hundred fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland of ten (10) or more contiguous acres, or the upland edge of a freshwater wetland of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any tributary stream, such that in a natural state, the combined surface area is in excess of ten (10) acres; and within seventy five (75) feet horizontal distance of the maximum high water line of a stream or tributary stream. This Ordinance also applies to the portion of the Mitchell Field Marine Business District as shown on the Official Shoreland Zoning Map that is more than two hundred fifty (250) feet, horizontal distance, from the HAT of the coastal wetland. This Ordinance also applies to Eagle Island as shown on the Official Shoreland Zoning Map.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf, pier or other structure extending below the maximum high water line of a great pond, freshwater wetland of ten (10) or more contiguous acres or tributary stream, or below the HAT of the coastal wetland as described in this section.

***Citizen's Note:*** Land use activity adjacent to protected natural resources requires a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time. Please see Code Enforcement Officer for more information.

#### **SECTION 4. EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ORDINANCE**

This Ordinance was originally enacted and became effective on March 14, 1992. Subsequent amendments become effective on the dates of their enactment, unless otherwise specified, and are listed on the Title Page. All amendments to and replacements of this Ordinance are subject to approval by the Department of Environmental Protection. If Department of Environmental Protection approval is made with conditions, the Ordinance shall be administered in accordance with those conditions pending further town legislative action. The Shoreland Zoning Ordinance previously adopted on June 27, 1974, and subsequently amended was repealed and replaced by this Ordinance.

#### **SECTION 5. AVAILABILITY**

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost and at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

#### **SECTION 6. SEVERABILITY**

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

Throughout this ordinance there are "Citizen's Notes". These notes shall not be considered part of this ordinance as adopted by the Town, but shall only be considered as aids for citizens to use this ordinance and as guides to the intent of ordinance provisions and their proper interpretation.

#### **SECTION 7. CONFLICTS WITH OTHER ORDINANCES**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute administered by the Town, the more restrictive provision shall control unless State shoreland zoning law provides otherwise.

#### **SECTION 8. AMENDMENTS**

This ordinance may be amended by majority vote of the Town. The effective date of an amendment shall be its date of enactment unless otherwise specified. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner of Environmental Protection. If the Commissioner of Environmental Protection fails to act on any amendment within forty-five (45) days of the Commissioner's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, as if such amendment is approved by the Commissioner.

## SECTION 9. LAND USE REQUIREMENTS

Except as this Ordinance specifies, no structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless variance is granted by the Board of Appeals.

## SECTION 10. NON-CONFORMANCE

**10.1. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that lawful non-conforming conditions that existed before the effective dates of this Ordinance and of any amendments to this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

***Citizen's Note:** Non-conformance should not be considered illegal or unacceptable. Non-conformance means lots of record or uses that are grand-fathered because they were in conformance with the standards in effect before the effective date of this Ordinance and any amendments that created new non-conforming conditions. The concerned party is encouraged to read through this Ordinance and contact a Town official should a question arise.*

### 10.2. General

**10.2.1. Transfer of Ownership.** Non-conforming structures, lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this ordinance.

**10.2.2. Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repair or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require.

***Citizen's Note:** See Definitions Addendum for the definitions of nonconforming structures, non-conforming uses, and non-conforming lots.*

### 10.3. Non-Conforming Structures

**10.3.1. Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure. For the purposes of this Ordinance, an increase to the non-conformity of the structure shall mean:

- any expansion towards a water body, tributary stream, wetland, or property line that decreases the shortest existing non-conforming setback distance from the, water body, tributary stream, wetland, or property line; or
- any expansion that would cause the structure to exceed the impermeable surface coverage requirements of Section 15.2.4; or
- any expansion that would cause the structure to exceed the height limits of Section 15.2.2.

The shortest existing non-conforming setback distance from a water body, tributary stream, wetland, or a property line may not be measured from an existing area used mainly for access to a structure, such as a small patio, terrace, landing, or small set of stairs.

***Citizen's Note:** It should be understood that small patios, terraces, landings, or small sets of stairs within minimum setbacks do not change the setback of the adjacent structure and cannot be used to justify expansion of any other part of the structure into that setback.*

**10.3.1.1. Further limitations.** If any portion of a structure in existence as of January 1, 1989 is less than the required setback from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland, upland edge of a freshwater wetland, or from a property line, that portion of the structure shall not be expanded in floor area or volume, by thirty percent (30%) or more, during the lifetime of the structure. If a replacement structure conforms to the requirements of Section 10.3.2.2 and is less than the required setback from a great pond, stream, tributary stream, coastal wetland or freshwater wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by thirty percent (30%) in floor area and volume since that date.

***Citizen's Note:** Disputed decisions may be appealed to the Board of Appeals.*

**10.3.1.2.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing the decision on the criteria specified in Section 10.3.2.1, Relocation. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 10.3.1.1, Further limitations, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

### **10.3.2. Relocation, Reconstruction, or Replacement**

**10.3.2.1. Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Codes Enforcement Officer, and provided that the applicant demonstrates that the present sub-surface wastewater disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming. Any relocation approved by the Code Enforcement Officer pursuant to this subsection shall be endorsed in writing by the Code Enforcement Officer.

In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on

adjacent properties, the location of the septic systems and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the resource setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

**10.3.2.1.1.** Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than fifty percent (50%) of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

**10.3.2.1.2.** Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation that may consist of grasses, shrubs, trees, or a combination thereof.

**10.3.2.2. Reconstruction or Replacement.** Any non-conforming structure that is located less than the required setback from a great pond, stream, tributary stream, coastal wetland, freshwater wetland or from a property line, and that is removed, damaged, or destroyed, regardless of the cause, by more than fifty percent (50%) of the assessed value of the structure, as adjusted by the Town's assessment ratio as most recently certified by the Assessors to the State of Maine, before such damage, destruction, or removal, as determined by the Code Enforcement Officer, may be reconstructed or replaced provided that a permit is obtained within one (1) year of the date of said damage, destruction, or removal, and provided that such replacement is in compliance with the setback requirements to the greatest practical extent, as determined by the Code Enforcement Officer, in accordance with the purposes of this Ordinance. In no case, shall a structure be reconstructed or replaced so as to increase its non-conformity. Any reconstruction or replacement approved by the Code Enforcement Officer pursuant to this subsection shall be endorsed in writing by the Code Enforcement Officer. If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure, except as allowed pursuant to Section 10.3.1. above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 10.3.2.1 above.

Any non-conforming structure that is located less than the required setback from a water body, tributary stream, or wetland and that is removed by fifty percent (50%) or less of the assessed value of the structure, as adjusted by the Town's assessment ratio as most recently certified by the Assessors to the State of Maine, or damaged or destroyed by fifty percent (50%) or less of the assessed value of the structure, as adjusted by the Town's assessment ratio as most recently certified by the Assessors to the State of Maine, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the water body, tributary stream, or wetland setback to the greatest practical extent, the Code Enforcement Officer shall consider, in addition to the criteria in Section 10.3.2.1 above, the physical condition and type of foundation present, if any.

**10.3.2.3. Authority of Planning Board to Exercise Jurisdiction over an Application.**

For any application for relocation, reconstruction or replacement made under Section 10.3, the Code Enforcement Officer shall provide written notice to the Planning Board and all property owners within two hundred fifty (250) feet of the property as listed on the Town's most recent assessing records that a relocation, reconstruction or replacement application has been received and is being reviewed. During that forty (40) day time period, the Planning Board may elect to exercise jurisdiction over the relocation, reconstruction or replacement application. The Planning Board's review, if any, shall be governed by the same review standards as govern the Code Enforcement Officer's review. The Code Enforcement Officer shall not issue any permit under this Section until the earlier of (a) forty (40) days after the date that the Code Enforcement Officer provides such written notice to the Planning Board and all property owners within two hundred fifty (250) feet of the property as listed on the Town's most recent assessing records or (b) the date the Planning Board declines to exercise jurisdiction over the application. Any relocation, reconstruction or replacement application approved by the Planning Board pursuant to this subsection shall be endorsed in writing. Failure of any property owner to receive the notice sent under this subsection does not invalidate any action taken by the Code Enforcement Officer or Planning Board.

**10.3.3. Change of Use of a Non-Conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater impact on a great pond, stream, tributary stream, coastal wetland or freshwater wetland described in Section 3 of this Ordinance, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historical resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

## 10.4. Non-Conforming Uses

**10.4.1. Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential and institutional uses may, after obtaining a permit from the Codes Enforcement Officer, be expanded within existing structures or within expansions of such structures as allowed in Section 10.3.1 above; provided; however, expansions of non-conforming institutional uses in the resource Protection Districts are prohibited.

*Citizen's Note: Disputed decisions may be appealed to the Board of Appeals.*

**10.4.2. Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use may not again be devoted to a non-conforming use. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes for the preceding five (5) year period.

The Planning Board may, for good cause shown by the applicant, grant up to one year extension to the above time periods.

**10.4.3. Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water-dependent uses in the CF I & II District, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 10.3.3 above. A non-residential use in a CF I district may not be changed to a residential use.

## 10.5. Non-Conforming Lots

**10.5.1.** Non-conforming lots whether located in legal subdivisions or elsewhere are subject to the provisions of this section.

**10.5.2. Non-Conforming lots.** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width, and shore frontage are met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

The status of a non-conforming lot of record shall not change as a result of realigning a common boundary line with the owner of a contiguous parcel of land, provided that (a) neither lot ends up more non-conforming after the transaction than it was prior to the transaction, as evidenced in writing by a land surveyor licensed to practice in Maine; (b) the parties cause copies of the recorded deeds to be submitted to the CEO within 30 days of the recording of the deeds at the registry; and (c) no permits or approvals relating to such non-conforming lot shall be issued unless or until the applicant complies with subsections (a) and (b) herein.

**10.5.3. Contiguous Built Lots.** If two or more contiguous lots or parcels are in a single or joint ownership of record as of the effective date(s) of this ordinance and any amendments thereto, if all or part of the lots do not meet the dimensional requirements of this ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed



separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold as a separate lot, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this ordinance.

**10.5.4. Contiguous Lots - Vacant or Partially Built.** If two or more contiguous lots or parcels are in single or joint ownership of record as of the effective date(s) of this ordinance or any amendment thereto, if any of these lots do not individually meet the dimensional requirements of this ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to two or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date(s) of this ordinance or any amendments thereto and recorded in the Registry of Deeds, if the lot is served by a public sewer, or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Rules and:

**10.5.4.1.** Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; or

**10.5.4.2.** Any lots that do not meet the frontage and lot size requirements of subparagraph 10.5.3. Are reconfigured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and twenty thousand (20,000) square feet of lot area.

**10.5.5. Changes in Lot Boundaries of Vacant Lots in Subdivisions.** The boundaries of a vacant lot in a subdivision approved under the Subdivision Ordinance may be modified provided the lot or lots so created, even though nonconforming, are less non-conforming than the approved lot or lots, and further provided that the new lot or lots will have no greater adverse impact on a great pond, stream, tributary stream, coastal wetland or freshwater wetland described in Section 3 of this Ordinance, or on the subject or adjacent properties and resources than the uses anticipated by the approved subdivision plan. Approval of boundary modification shall be obtained by action of the Planning Board.

## **10.6. Creation of Non-Conforming Lot(s) for Preservation or Conservation Purposes**

**10.6.1.** An existing conforming lot or a non-conforming lot referred to in Sections 10.5.2. and 10.5.3. of this Ordinance may be divided so as to create not more than two lots, one or both of which are non-conforming lots, provided that the Harpswell Planning Board finds that the following conditions are met:

**10.6.1.1.** One of the resulting lots is conveyed to a governmental body or a nonprofit tax exempt organization (preservation grantee) for conservation or preservation purposes.

**10.6.1.2.** The division does not create or exacerbate a public health or safety problem on the non-conforming lot not to be conveyed to a preservation grantee (the remaining lot) to

the extent that the remaining lot does not have adequate (as defined by the appropriate code) well and septic waste disposal options.

**10.6.1.3.** If the lot conveyed to the preservation grantee is undeveloped land, or is to be returned to an undeveloped state, the deed or instrument of conveyance shall contain restrictions which require that the land be preserved or maintained in its natural state (although not necessarily "forever wild") in perpetuity for one or more generally recognized purposes which benefit the natural, cultural, or architectural history of the Town or which preserves a diminishing or threatened place, parcel of land, resource, or habitat.

**10.6.1.4.** If the lot conveyed to the preservation grantee contains a pre-existing structure or improvement, the structure or improvement must have a demonstrable historic, cultural, or architectural importance and the deed or instrument of conveyance shall contain restrictions which require that the land and the improvements thereon be preserved and maintained so as to protect and preserve said historic, cultural, or architectural importance. No structure on the lot conveyed to a preservation grantee pursuant to this section may be inhabited as a dwelling.

## **SECTION 11. DISTRICTS AND ZONING MAP**

**11.1. Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

- 1) Resource Protection
- 2) Shoreland Residential
- 3) Shoreland Business
- 4) Commercial Fisheries I
- 5) Commercial Fisheries II
- 6) Mitchell Field Marine Business
- 7) Eagle Island Historic District

**11.1.1. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 1500 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

**11.1.2. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

**11.1.3. Changes to the Official Shoreland Zoning.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of Environmental Protection. Any changes to the Official Maps must be approved by a majority vote of the Town.

## SECTION 12. INTERPRETATION OF DISTRICT BOUNDARIES

The depiction of the Resource Protection Districts and all Shoreland Zoning Districts on the Official Shoreland Zoning maps for the Town of Harpswell is illustrative of their general location. The boundaries of these districts shall be determined by measurement from maximum high water line of a great pond, stream, tributary stream, the HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance, regardless of the location of the boundary shown on the map.

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads, and rights-of-way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines shown on the official map, the written description shall be the determining factor. The Board of Appeals shall be the final authority as to the location.

## SECTION 13. ESTABLISHMENT OF DISTRICTS

**13.1. Resource Protection District** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the areas listed below when they occur within the limits of the Shoreland Zone, except that areas which are developed and areas which meet the criteria for the Shoreland Business or Commercial Fisheries I & II Districts need not be included within the Resource Protection District.

1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands described in Section 3 of this Ordinance, within two hundred fifty (250) feet, horizontal distance, of the HAT of coastal wetlands consisting predominantly of salt marshes, salt meadows, and freshwater wetlands associated with great ponds that are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection as of May 1, 2006. For the purposes of this paragraph "freshwater wetlands associated with great ponds" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond, and have a surface elevation at or below the water level of the great pond during the period of normal high water. "Freshwater wetlands associated with great ponds" are considered to be part of that great pond.
2. Areas within the Shoreland Zone that are also within the V-zone of the one hundred (100) year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or as determined by a survey performed by a licensed surveyor establishing the base flood elevations for a parcel.  
  
***Citizen's Note:** To determine the location of the V-zone of the 100-year flood plain, see the Harpswell Flood Plain Ordinance, and the above-referenced maps currently in effect which are on file at the Town Office.*
3. Areas of two (2) or more contiguous acres with sustained slopes of twenty percent (20%) or greater.

4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, that are not part of a freshwater or coastal wetland described in Section 3 of this Ordinance and that are not surficially connected to a water body during the period of maximum high water.
5. Areas within the Shoreland Zone that are adjacent to tidal waters and are subject to severe erosion or mass movement, such as steep coastal bluffs.

***Citizens Note:** All Resource Protection areas as defined in subsections 2, 3, 4, and 5, above may not appear on the Official Shoreland Zoning Map. See Section 12 of this ordinance.*

**13.1.1. Principal Use.** The Planning Board may approve a permit for a single family dwelling unit and accessory residential structures in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the Cumberland County Registry of Deeds before the adoption of the Resource Protection District.
3. The proposed location of all buildings, sewage disposal systems, and other improvements are:
  - a. located on natural ground slopes of less than twenty percent (20%); and
  - b. located outside the floodway of the one hundred (100)-year floodplain along rivers and artificially formed great ponds along rivers; and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the one hundred (100)-year floodplain elevation; and the development is in compliance with the municipal floodplain elevation; and the development is in compliance with the municipal floodplain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be the width of the one hundred (100)-year floodplain.
4. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of fifteen hundred (1,500) square feet. This limitation shall not be altered by variance.
5. All structures, except functionally water-dependent structures, are set back from the maximum high water line of a great pond, stream, tributary stream, the HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance to the greatest practical extent, but not less than seventy five (75) feet horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

**13.1.2. Accessory Use.** The Planning Board may approve a permit for a home occupation as an accessory use in a Resource Protection District subject to the standards outlined in Section 15.20 of this Ordinance.

**13.1.3. Community Shoreland Access Special Exception.** The Planning Board may approve a permit for the construction of and/or improvement to community shoreland access ways and associated accessory structures and uses in a Resource Protection District provided that the following conditions are met:

1. There is no location suitable for shoreland access, other than a location within the Resource Protection District, which is practicable.
2. The proposed location of structures, sewage disposal systems, and other improvements excluding raised boardwalks, stairs and open fences intended to restrict access to environmentally sensitive areas are:
  - a. located on natural ground slopes of less than twenty percent (20%); and
  - b. located outside the floodway of the one hundred (100)-year floodplain along rivers and artificially formed great ponds along rivers; and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the one hundred (100)-year floodplain elevation; and the development is in compliance with the municipal floodplain elevation; and the development is in compliance with the municipal floodplain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be the width of the one hundred (100)-year floodplain.
3. All structures, except functionally water-dependent structures, raised boardwalks, stairs, and fences intended to restrict access to environmentally sensitive areas are set back from the maximum high water line of a great pond, stream, tributary stream, the HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance to the greatest practical extent, but not less than seventy five (75) feet horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

**13.2. Shoreland Residential District.** The Shoreland Residential District includes areas of mixed residential, recreational, and light commercial development. Home occupations, including but not limited to commercial fishing, are an allowed accessory use within the Shoreland Residential District provided they meet the standards outlined in Section 15.20 of this Ordinance. The Shoreland Residential District includes areas other than those in the Resource Protection District, and areas which are used less intensively than those in the Shoreland Commercial District, or the Commercial Fisheries I & II District.

**13.3. Shoreland Business District.** The Shoreland Business District includes areas of mixed light commercial and residential uses. This district includes areas of one (1) or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited. See definition.

**13.4. Commercial Fisheries I District.** The Commercial Fisheries I District shall be defined as the C.F. District existing prior to March 14, 1992 limited to seventy five (75) feet inland from the HAT of the coastal wetland and includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

1. shelter from prevailing winds and waves;
2. slope of the land within two hundred fifty (250) feet, horizontal distance, of the HAT line;
3. depth of the water within one hundred fifty (150) feet, horizontal distance, of the shoreline;
4. available support facilities including utilities and transportation facilities; and
5. compatibility with adjacent upland uses.

Principal and accessory residential use is prohibited within the Commercial Fisheries I District.

**13.5. Commercial Fishing II District.** The Commercial Fishing II District shall be defined as the remaining one hundred seventy five (175) foot zone behind CF I, to two hundred fifty (250) ft. inland from the HAT of the coastal wetland.

In the CF II District, residential use that is accessory to the principal functionally water-dependent use may be allowed subject to the residential standards as defined in Section 15.1 and Table I in Section 14 of this Ordinance. Both parts of CF I and CF II of any lot in the CF District existing prior to January 1, 1989, shall be included in calculating lot size.

**13.6. Mitchell Field Marine Business District.** The Mitchell Field Marine Business District includes the area of the shoreland area within two hundred fifty (250) feet of the HAT of the coastal wetland as well as the adjacent upland area that is more than two hundred fifty (250) feet from the maximum high water line as shown on the Official Shoreland Zoning Map.

**13.7. Eagle Island Historic District.** The Eagle Island Historic District includes all land area that comprises Eagle Island.

**13.7.1. Purpose.** The protection, enhancement, and perpetuation of landmarks of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the citizens of Harpswell and the general public. It is recognized that the Eagle Island State Historic Site represents the unique confluence of time and place that produced significant historic, cultural and natural resources that constitute the heritage of the Town of Harpswell. It is the purpose of this district to:

- 13.7.1.1.** protect and enhance the Eagle Island State Historic Site, which represents distinctive elements of Harpswell's historic, cultural and

natural resources heritage;

**13.7.1.2.** foster civic pride in the accomplishments of the past;

**13.7.1.3.** protect and enhance Harpswell's attractiveness to visitors and the support and stimulus to the economy thereby provided; and

**13.7.1.4.** increase public awareness of the value of historic, cultural and natural resource preservation through public education about the Eagle Island State Historic Site.

### **13.7.2. Land Use Standards.**

**13.7.2.1.** Permitted land uses include (a) single family dwelling, museum, visitors' center, water related uses, boat house, wharf, and pier; (b) structures accessory to the uses set forth in subsection (a); and (c) any educational, park, recreational, cultural or historic preservation uses related in any way to the uses set forth in subsection (a). Notwithstanding any other provision of this Ordinance to the contrary, there shall only be one (1) single family dwelling use allowed within the Eagle Island Historic District.

**13.7.2.2.** All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance; provided, however, that any new principal and accessory structures consistent in footprint, height and general location with structures historically located on Eagle Island may be set back at least twenty-five (25) feet, horizontal distance, from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance. The great pond, stream, tributary stream, coastal wetland or freshwater wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses.

**13.7.2.3.** Principal or accessory structures and expansions of existing structures shall not exceed thirty (30) feet in height. All expansions of principal and accessory structures that increase the footprint of the structure shall not exceed thirty (30) feet in height.

**13.7.2.4.** The lowest floor elevation or opening of all building and structures including basements shall be elevated at least one foot above the elevation of the one hundred (100)-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

**13.7.2.5.** The total footprint area of all structures and other impermeable surfaces within the district shall not exceed twenty percent (20%) of the total land area of the district.

**13.7.2.6.** A building permit shall be obtained from the Code Enforcement

Officer for the construction, expansion, replacement, rehabilitation or alteration of any structure containing uses set forth in Section 13.7.2.1 above.

**13.7.2.7.** Except as set forth herein, permitted land uses shall be conducted in accordance with all other applicable provisions of federal, State and local law, including, without limitation, the State of Maine Subsurface Wastewater Disposal Rules.

**13.7.2.8.** Sections 15.2 and 15.9 of this Ordinance do not apply to the district.

**13.7.3. Conflicts.** Notwithstanding any other provision of this Ordinance to the contrary, in the event that any provision of this Section 13.7 conflicts with any other provision of this Ordinance, Section 13.7 shall prevail.

## **SECTION 14. TABLE OF LAND USES IN THE SHORELAND ZONE**

**14.1.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform to all of the applicable land use standards in Section 15 of this Ordinance. The land use activities that are prohibited or allowed with or without permits are indicated in Table 1. The district designation for a particular site shall be determined by measurement from maximum high water line of a great pond, stream, tributary stream, the HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance, regardless of the location of the boundary shown on the map.



TABLE 1 LAND USES IN THE SHORELAND ZONE						
Land Uses	Shoreland Districts					
	RP	SR	SB	CF I	CF II	MFMB <sup>16</sup>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking	yes	yes	yes	yes	yes	yes <sup>15</sup>
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting	yes	yes	yes	yes	yes	no
4. *Timber Harvesting	CEO/PB or Bureau	yes/PB or Bureau	yes/PB or Bureau	yes/PB or Bureau	yes/PB or Bureau	no
5. *Clearing of vegetation for approved construction and other allowed uses	CEO	yes	yes	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes	yes
9. Mineral exploration	no	no	no	no	no	no
10. Mineral extraction including sand and gravel extraction	no	no	no	no	no	no
11. Surveying and resource analysis	yes	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes	yes
13. *Agriculture	PB	yes	yes	no <sup>1</sup>	yes	no
14. Aquaculture	PB	PB	PB	PB	PB	PB <sup>16</sup>
15. Principal structures and uses						
15.1. One and two family residential, including driveways	PB <sup>10</sup>	CEO	CEO	no	CEO	no
15.2. Multi-unit residential	no	no	no	no	no	no
15.3. *Commercial	no <sup>13</sup>	no <sup>13</sup>	PB	PB <sup>4</sup>	PB <sup>2</sup>	PB <sup>16</sup>
15.4. *Industrial	no	no	PB	no	no	PB <sup>16</sup>
15.5. *Governmental and Institutional	no <sup>9</sup>	PB	no	no	no	PB
15.6. Small non-residential facilities for marine, scientific or nature related purposes	no	PB	PB	PB	PB	PB <sup>17</sup>
15.7. Non-agricultural Fertilizer Use						
15.7.1 Chemical fertilizer, sludge and non-composted manure	no	no	no	no	no	no
15.7.2 Organic Fertilizer and composted manure	Yes <sup>21</sup>	Yes <sup>21</sup>	Yes <sup>21</sup>	Yes <sup>21</sup>	Yes <sup>21</sup>	Yes <sup>21</sup>
15.8. Community Shoreland Access	PB <sup>20</sup>	CEO	CEO	CEO	CEO	CEO
16. Accessory Structures and uses	PB <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO <sup>11</sup>	CEO
17. Structural Repair	yes	yes	yes	yes	yes	yes
17.1 Structural alteration/replacement: residential	CEO	CEO	CEO	CEO	CEO	no

**TABLE 1 LAND USES IN THE SHORELAND ZONE (Continued)**

Land Uses	Shoreland Districts					
	RP	SR	SB	CF I	CF II	MFMB <sup>16</sup>
17.2 Structural alteration/replacement: non-residential	CEO/ PB	CEO/ PB	CEO/ PB	CEO/ PB	CEO/ PB	CEO/PB
18.1. Non-commercial piers, docks, wharves, bridges, and other structures and uses extending over or below the HAT, maximum high water line or wetland	PB <sup>14</sup>	CEO <sup>14/18</sup>	CEO <sup>14/18</sup>	CEO <sup>14/18</sup>	CEO <sup>14/18</sup>	CEO <sup>14/18</sup>
18.2. Commercial piers, docks, wharves, bridges, and other structures and uses extending over or below the HAT, maximum high-water line or wetland	PB <sup>14</sup>	CEO/PB <sup>14/19</sup>	CEO/PB <sup>14/19</sup>	CEO/PB <sup>14/19</sup>	CEO/PB <sup>14/19</sup>	CEO/PB <sup>14/19</sup>
18.3 Community piers, docks and wharves	PB	PB	PB	PB	PB	PB
19. Conversions of seasonal residences to year-round residences	no	LPI	LPI	no	LPI	no
20. *Home occupations	PB <sup>8</sup>	yes <sup>8</sup>	yes <sup>8</sup>	yes <sup>8</sup>	yes <sup>8</sup>	no
21. Sewage disposal systems	PB <sup>10</sup> / LPI	LPI	LPI	LPI	LPI	LPI
22.*Essential services	PB	PB	PB	PB	PB	PB
23. Service drops for allowed uses	yes	yes	yes	yes	yes	yes
24. Public and private recreational areas involving minimal development but no building	PB	PB	CEO	CEO	CEO	CEO
25. *Individual, private campsites	CEO	CEO	CEO	no	CEO	no
26. *Campgrounds	no <sup>5</sup>	PB	PB	no	PB	no
27. *Road construction	no <sup>6</sup>	CEO	CEO	CEO <sup>4</sup>	CEO	CEO
28. *Parking areas – residential	CEO/PB	CEO	CEO	CEO	CEO	no
29. *Parking areas – non-residential	no <sup>9</sup>	PB	PB	PB <sup>4</sup>	PB	PB
30. *Marinas	no	no	PB	PB <sup>7</sup>	PB <sup>7</sup>	PB <sup>16</sup>
31. Boat Repair Facility	no	no	PB	PB	PB	PB <sup>16</sup>
32. Filling and earthmoving of <50 cubic yards	CEO	yes	yes	yes	yes	yes
33. Filling and earthmoving of >50 cubic yards but less than 1,000 cubic yards	PB	CEO	CEO	CEO <sup>4</sup>	CEO	CEO
34. Filling and earthmoving of >1000 cubic yards <sup>12</sup>	PB	PB	PB	PB <sup>4</sup>	PB	PB
35.*Signs	CEO	CEO	CEO	CEO	CEO	CEO
36. Uses similar to allowed uses	CEO	CEO	CEO	CEO <sup>4</sup>	CEO	CEO
37. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
38. Uses similar to uses requiring a PB permit	PB	PB	PB	PB <sup>4</sup>	PB	PB
39. Projects which use more than 1000 gallons of water/day	CEO	CEO	CEO	CEO	CEO	PB
40. Land Management Roads	PB	yes	yes	yes	yes	no
41. Mobile Food Handlers	no	BOS	BOS	BOS	BOS	no

## 14.2. Key to Table 1:

- Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)
- No - Prohibited
- PB - Requires permit issued by the Planning Board
- CEO - Requires permit issued by the Code Enforcement Officer
- LPI - Requires permit issued by the Local Plumbing Inspector
- Bureau - Requires permit issued by State of Maine Department of Conservation's Bureau of Forestry

## ABBREVIATIONS:

- RP - Resource Protection
- SR - Shoreland Residential
- SB - Shoreland Business
- CF I - Commercial Fisheries I
- CF II - Commercial Fisheries II
- MFMB - Mitchell Field Marine Business

## FOOTNOTES: Land Use Table

\*For further information on the \* uses in land use chart see Section 15.

1. No - except grand-fathered properties.
2. Marine related services only. Retail stores limited to nine hundred (900) or less square feet in size.
3. No - except limited Commercial Fishing activities.
4. Functionally water-dependent and accessory to Commercial Fishing uses only.
5. Except when area is zoned for resource protection solely due to flood plain criteria in which case a permit is required from the PB.
6. Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.
7. Primarily commercial fishing related use.
8. Home occupations that provide public restrooms and showers or serve food to the public require a CEO permit. All home occupations are subject to the provisions of Section 15.20 of the Shoreland Zoning Ordinance regardless of whether they are located within the Shoreland Zone.
9. Additions or expansions to existing Town Office Complex may be allowed with Planning Board approval.
10. Only as provided in Section 13.1.1. of the Shoreland Zoning Ordinance.
11. When a structure is accessory to both residential and non-residential uses, the more restrictive provisions of the ordinances shall apply.
12. May require site plan review approval. See Town of Harpswell Site Plan Review Ordinance.

13. Except for other allowed commercial uses listed in the Table that are allowed in the respective district.
14. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
15. Hunting is prohibited on all property at Mitchell Field that is owned by the Town of Harpswell.
16. At least forty-five percent (45%) of the gross leasable lot area within the district must be utilized for aquaculture, marinas, boat repair facilities, and/or functionally water-dependent uses as defined in the Definitions Addendum. Not more than fifteen percent (15%) of the gross leasable lot area in the district may be used for commercial or industrial uses that are not functionally water-dependent businesses, aquaculture, marinas, and/or boat repair facilities nor other marine-related businesses as defined in the Definitions Addendum provided that these uses may not be located within two hundred fifty (250) feet of the HAT of the coastal wetland. Marine-related business uses are allowed within the district provided that the limitations set forth above are met. The use of the pier and the causeway leading to the pier is limited to activities involving public access and recreation and activities related to and in support of functionally water-dependent uses and marine related businesses that are located within the Mitchell Field Marine Business District provided that the private use of these facilities does not unduly restrict reasonable public access to and use of the pier.
17. The limitation on the size of non-residential facilities for marine, scientific, or nature related purposes shall not apply in the Mitchell Field Business Districts if the Planning Board finds that the scale and location of the facility are consistent with the objectives of shoreland zoning and the Mitchell Field Master Plan.
18. Permits applications for non-commercial, private piers, docks or wharves with a maximum width of six (6) feet as measured parallel to the shoreline and which do not extend below the low water line shall be reviewed and issued by the Code Enforcement Officer. Non-commercial, private piers greater than six (6) feet wide as measured parallel to the shoreline or which extend below the low water line are prohibited.
19. Permits applications for commercial piers, docks or wharves with a maximum width of twelve (12) feet as measured parallel to the shoreline and which limit the length of the structure to the minimal amount necessary to provide access to the boats intended to use the facility shall be reviewed and issued by the Code Enforcement Officer. Permits for commercial piers greater than twelve (12) feet wide as measured parallel to the shoreline or which exceed the minimum length necessary to provide access to the boats intended to use the facility shall be reviewed and issued by the Planning Board.
20. Only as provided in Section 13.1.2. of the Shoreland Zoning Ordinance.
21. Organic fertilizer and composted manure may not be applied within twenty five (25) feet of the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland as outlined in Section 15.21.1 of this ordinance.

***Citizen's Note:*** Land use activity adjacent to protected natural resources requires a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time. Please see Code Enforcement Officer for more information.

## SECTION 15. LAND USE STANDARDS

No developer, person, or group shall restrict the use of property in any Shoreland Zone, neither now nor in the future, that limits commercial fishing or its related uses, as a home occupation. (i.e. lobstering, dragging, clamming, trap storage)

All land use activities within the Shoreland Zone shall conform to the following provisions, if applicable:

<b>15.1. Minimum Lot Standards Table</b>		
	Minimum Lot Area (square feet)	Minimum Shore Frontage (feet)
<b>Residential per dwelling unit</b>		
1. Within the Shoreland Zone adjacent to Tidal Areas.	40,000	150
<i>Note: See sliding scale regarding frontage in Section 15.1.3</i>		
2. Within the Shoreland Zone adjacent to Non-Tidal Areas	40,000	200
3. Offshore Islands	40,000	150
<b>Commercial per principal structure</b>		
1. Within the Shoreland Zone Adjacent to Tidal Areas Exclusive of Those Areas Zoned for Commercial Fisheries I and II and Mitchell Field Marine Business	40,000	200
2. Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries I and II (for Commercial Uses Only)	NONE	NONE
3. Within the Shoreland Zone Adjacent to Tidal Areas Zoned Mitchell Field Marine Business District for all uses	20,000	150
4. Within the Shoreland Zone Adjacent to Non-Tidal Areas	60,000	300
<b>Public and Private Recreational Facilities</b>		
1. Within the Shoreland Zone adjacent to Tidal and Non-Tidal areas	40,000	200
<b>Community Docks</b>		
1. Within the Shoreland Zone adjacent to Tidal and Non-Tidal Areas if improved with no structure other than the community dock	NONE *	60

\*Lot area must be sufficient, as determined by the Planning Board, to accommodate parking spaces for vehicles, vehicular circulation on the lot, loading and unloading areas, any float storage and any access ramp.

**15.1.1.** Land below the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or upland edge of a freshwater wetland described in Section 3 of this Ordinance, and land that is part of a road or transportation right-of-way serving more than two (2) lots except rights-of-way or easements used exclusively for pedestrian access, shall not be included when calculating minimum lot area.

**15.1.2.** Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

**15.1.3. Sliding Scale:** Lot frontage in the Shoreland Zone is governed by the average shore frontage of three (3) lots to either side of the lot to be divided. Lots shall be either, not less than, one hundred (100) feet frontage or one hundred fifty (150) feet or greater of frontage.

A 200 - 299 ft. lot (frontage) surrounded by three (3) lots on either side, averaging one hundred forty nine (149) feet or less frontage, could be divided into lots with one hundred (100) feet minimum shore frontage. If surrounded by three (3) lots to either side with an average of one hundred fifty (150) feet frontage or greater, the lot could not be divided.

HENCE: If a parcel is surrounded by three (3) lots either side, averaging less than one hundred forty nine (149) feet frontage, lot can be divided into one hundred (100) feet frontage lots. If a parcel is surrounded by three (3) lots either side averaging greater than one hundred fifty (150) feet frontage, lot must be divided into one hundred fifty (150) feet frontage or greater lots.

**15.1.4.** The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or upland edge of a freshwater wetland described in Section 3 of this Ordinance, shall be equal or greater than the shore frontage requirement for a lot with the proposed use.

**15.1.5.** If more than one residential dwelling unit, principal governmental, institutional commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit principal structure, or use except in the Mitchell Field Marine Business District. In the Mitchell Field Marine Business District, the lot must conform to the minimum lot area requirement for each principal structure. In the Mitchell Field Marine Business District, the lot must conform to the minimum shore frontage requirement, however if there is more than one principal structure on a lot within two hundred fifty (250) feet of the HAT of the coastal wetland, the lot must meet the minimum shore frontage requirement for each principal structure.

## **15.2. Principal and Accessory Structures**

***Citizen's Note:** See Land Use Chart for proper permitting authority. Check definition of a structure.*

**15.2.1. Setbacks.** All new principal and accessory structures shall be set back at least seventy-five (75) feet, horizontal distance, from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance, and twenty five (25) feet from all other lot lines, except as provided in subsection 15.2.1.1, 15.2.1.2 and 15.2.1.3.. In a Resource Protection District, the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for structures, roads, parking spaces or other related objects specifically allowed in that district in which case the setback requirements above shall apply.

***Citizen's Note:** See definition of water bodies Definitions Addendum.*

**15.2.1.1.** The great pond, stream, tributary stream, coastal wetland or freshwater wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses or commercial fishing related structures, or marine-related businesses in the Mitchell Field Marine Business District.

**15.2.1.2.** For piers, docks, and wharves that do not serve as community docks, the sideline setback shall be twenty five (25) feet. For piers, docks, and wharves that serve as community docks, the sideline setback shall be ten (10) feet for all parcels with shared access and twenty five (25) feet for all parcels that do not have shared access to the pier, dock or wharf. The Codes Enforcement Officer may permit the sideline setback to be reduced if the abutter(s) agrees in writing and it is duly recorded in Cumberland County Registry of Deeds.

**15.2.1.3.** On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required great pond, stream, tributary stream, coastal wetland or freshwater wetland setbacks, and which an accessory structure does not already exist, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

**15.2.1.4.** Seawalls and/or retaining walls which are necessary to stabilize shoreline erosion shall not be required to meet the structure setback requirement; provided that the seawall or retaining wall is permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement; provided, however, that low retaining walls and associated fill

necessary for erosion control need not meet the structure setback requirement if the following conditions are met:

**15.2.1.4.1.** The site has been previously altered and an effective vegetated buffer does not exist;

**15.2.1.4.2.** The wall(s) is (are) at least twenty five (25) feet, horizontal distance, from the maximum high-water line of a great pond, stream, tributary stream, HAT of the coastal wetland or upland edge of a freshwater wetland;

**15.2.1.4.3.** The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

**15.2.1.4.4.** The total height of the wall(s), in the aggregate, is no more than 24 inches;

**15.2.1.4.5.** Retaining walls are located outside of the one hundred (100)-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils;

**15.2.1.4.6.** The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

**15.2.1.4.7.** A vegetated buffer area is established within twenty five (25) feet, horizontal distance, of the maximum high-water line of a great pond, stream, tributary stream, HAT of the coastal wetland or upland edge of a freshwater wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

**15.2.1.4.7.1.** The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking, the area must be supplemented with leaf or bark mulch;

**15.2.1.4.7.2.** Vegetative plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

**15.2.1.4.7.3.** Only native species may be used to establish the buffer area;

**15.2.1.4.7.4.** A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the maximum high-water line, HAT or upland edge of a resource; and



**15.2.1.4.7.5.** A footpath not to exceed the standards set forth in Section 15.15.2.1 of this Ordinance may traverse the buffer.

**15.2.1.5.** For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the Code Enforcement Officer or Planning Board, as appropriate, are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

**15.2.1.6.** In the Mitchell Field Marine Business District, all principal and accessory structures including parking and service areas and equipment or material storage areas shall be set back at least fifty (50) feet from the northern, eastern and southern boundaries of the Mitchell Field Business District.

**15.2.2.** Principal or accessory structures and expansions of existing structures shall not exceed thirty (30) feet in height. All expansions of principal and accessory structures that increase the footprint of the structure shall not exceed thirty (30) feet in height. For any principal or accessory structure existing as of March 10, 2007 that lawfully exceeds thirty (30) feet in height, such structure may be expanded without the need for a variance provided that (a) the expansion does not increase the footprint of the structure; and (b) the expansion does not exceed the greatest height of the existing structure. Expansions of non-conforming structures must comply with all other expansion limitations of this Ordinance. The Code Enforcement Officer shall review any proposed expansion of a structure and shall determine, in writing, whether the requirements of this subsection are met prior to the issuance of any permit. Any non-residential structure exceeding twenty five hundred (2,500) square feet must apply for Site Plan Review. This subsection does not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

The height of a structure shall be determined by using the vertical distance, as measured from halfway between the mean original grade at the downhill side of the structure and the mean original grade at the uphill side of the structure to the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances which have no floor area.

Notwithstanding the preceding sentence, cupolas or similar portions of a structure having no floor area and exceeding any of the following dimensions (a) a side wall of sixteen (16) square feet; (b) a side wall of four (4) feet in height; (c) sixteen (16) square feet of horizontal area; or (d) a twelve (12)-pitch roof, shall be included in the measurement of the height of a structure.

If the measurement cannot be made from the original grade where the structure is to be located, the Code Enforcement Officer shall establish a reasonable approximation of original grade for the purposes of determining height.

**15.2.3.** The lowest floor elevation or opening of all building and structures including basements shall be elevated at least one foot above the elevation of the one hundred (100)-year

flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.

**15.2.4.** The total footprint area of all structures, driveways, parking lots, and other impermeable surfaces within the Shoreland Zone shall not exceed twenty percent (20%) of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed, except in the Shoreland Business, Mitchell Field Marine Business, and Commercial Fisheries I and II Districts. In the Shoreland Business District, impermeable surface coverage shall not exceed seventy percent (70%) for boat repair and construction facility, marina uses, and commercial fishing uses only; the twenty percent (20%) impermeable surface coverage limitation shall apply to all other uses that may occur in the Shoreland Business District. In the Commercial Fisheries I District and the Mitchell Field Marine Business District, impermeable surface coverage shall not exceed seventy percent (70%). In the Commercial Fisheries II District, impermeable surface coverage shall not exceed seventy percent (70%) for functionally water dependent or functionally water dependent accessory uses only; the twenty percent (20%) impermeable surface coverage limitation shall apply to all other uses that may occur in the CF II District.

**15.2.5.** Notwithstanding the requirements stated above, community shoreland access, stairways or similar structures may be allowed with a permit from the Codes Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or upland edge of a freshwater wetland described in Section 3 of this Ordinance unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time; and that the applicant demonstrates that no reasonable access alternative exists on the property.

**15.3. Piers, Docks, Wharves, Bridges, And Other Structures And Uses Extending Over Or Below The Maximum High Water Line Of a Great Pond, Stream, Tributary Stream, HAT of the Coastal Wetland Or Within a Freshwater Wetland.**

**15.3.1.** Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

**15.3.2.** The location shall not interfere with existing developed or natural beach areas.

**15.3.3.** The facility shall be located so as to minimize adverse affects on fisheries.

**15.3.4.** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area.

**15.3.4.1.** Non-commercial, private piers, docks and wharves shall have a maximum width of 6 feet and shall not extend below the low water line (not including ramps and floats).

**15.3.4.2.** Commercial piers, docks and wharves shall be limited to twelve (12) feet in width. The width of larger projects shall be justified by the applicant and approved by the Planning Board.

**15.3.4.3.** The maximum width of community docks is as set forth in Section 15.23 of this Ordinance.

**15.3.5.** No new structure shall be built on, over or abutting a pier, wharf, dock, or other structure extending beyond the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or within a freshwater wetland described in Section 3 of this Ordinance. Commercial fishing structures requiring direct access to the water as an operational necessity are allowed.

**15.3.6.** No existing structure built on, over or abutting a pier, dock, wharf or other structure extending beyond the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or within a freshwater wetland described in Section 3 of this Ordinance shall be converted to residential dwelling units in any district.

**15.3.7.** Except in the Commercial Fisheries I District, structures built on, over or abutting a pier, wharf, dock, or other structure extending beyond the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or within a freshwater wetland described in Section 3 of this Ordinance shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

***Citizens Note:** Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time, and from the Army Corp of Engineers.*

**15.3.8.** No new wharf, pier, dock, and/or float shall be constructed on a lot shown on a recorded subdivision plan that has deeded rights of access to a wharf, pier, dock, and/or float; provided, however, that the Planning Board may authorize a new community dock within that subdivision pursuant to Section 15.23 of this Ordinance if the applicant can demonstrate that the new community dock will significantly improve access to a wharf, pier, dock, and/or float for at least one-third of the lots within the subdivision and protect natural resources from overdevelopment.

**15.3.9.** New permanent piers and docks on non-tidal waters shall not be allowed unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as may be amended from time to time.

**15.4. Campgrounds** shall conform to the minimum requirements imposed under State licensing procedures, Harpswell's Site Plan Review Ordinance, and the following:

**15.4.1.** The total land area of the campground in square feet, not including roads and driveways, must equal the number of campsites times five thousand (5000). Land below the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or within a freshwater wetland shall not be included in calculating total land area.

Campsites within the Shoreland Zone, either in whole or in part, shall contain at least five thousand (5,000) square feet. Campsites with shore frontage must have a minimum of fifty (50) feet of shore frontage.

Campsites located outside of the Shoreland Zone shall contain at least one thousand (1,000) square feet.

**15.4.2.** The areas intended for placement of a recreational vehicle, tent, or shelter, and utility buildings, or service buildings shall be set back a minimum of seventy-five (75) feet from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in section 3 of this Ordinance; and twenty-five (25) feet from campground property lines.

**15.5. Individual Private Campsites.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

**15.5.1.** One campsite per lot existing on the effective date of this ordinance, or forty thousand (40,000) square feet of lot area within the Shoreland Zone, whichever is less, may be permitted.

**15.5.2.** Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance; and twenty-five (25) feet, horizontal distance, from any individual private campsite property line.

**15.5.3.** Only one Recreation Vehicle shall be allowed on a campsite. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.

**15.5.4.** The clearing of vegetation for the siting of the recreational vehicle, tent, or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.

**15.5.5.** A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and must be approved by the local plumbing inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

**15.5.6.** An individual private campsite shall not be utilized for the placement of any recreational vehicle(s), tent(s), or similar shelter(s) for more than one hundred twenty (120) days in any calendar year. This one hundred twenty (120) day limitation applies to all individual private campsites whether or not they have been utilized prior to effective date of this amendment. Placement of any recreational vehicle(s), tent(s) or similar shelter(s) on an individual private campsite for more than one hundred twenty (120) days in any calendar year requires compliance with all requirements of this Ordinance applicable to a dwelling, including the installation of a subsurface wastewater disposal system in compliance with the Maine Subsurface Wastewater Disposal Rules. This Section does not prohibit the storage of an unoccupied recreational vehicle, tent, or similar shelter on land other than an individual private campsite.

**15.5.7.** No recreational vehicle, tent, or similar shelter may be occupied unless it is located: (1) in a campground allowed under Section 15.4; (2) on an individual private campsite allowed pursuant to Section 15.5; or (3) on the same lot as a dwelling and used for no more than one hundred twenty (120) days in a calendar year, by the residents of the dwelling or their guests.

**15.6. Commercial and Industrial Uses.** The following new commercial and industrial uses are prohibited within two hundred fifty (250) feet horizontal distance of the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance; in the Mitchell Field Marine Business District and in any other portion of the Shoreland Zone:

1. Auto washing facilities
2. Auto or other vehicle service and/or repair operations, including body shops
3. Chemical and bacteriological laboratories
4. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
5. Commercial painting, wood preserving, and furniture stripping except painting in boat building - boat repair facilities
6. Dry cleaning establishments
7. Electronic circuit assembly
8. Laundromats
9. Electro plating, finishing, or polishing
10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas, boat repair facilities, and commercial fishing operations
11. Photographic processing
12. Printing

**15.7. Parking Areas.** This section applies when an area is developed for parking of seven or more vehicles.

**15.7.1.** Parking areas shall meet the Shoreland setback requirements for structures for the district in which such areas are located, except that:

**15.7.1.1.** The setback requirement for parking areas in the Commercial Fisheries I District may be reduced to no less than twenty-five (25) feet, horizontal distance, from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this ordinance if the Code Enforcement Officer determines that no reasonable alternative exists, and

**15.7.1.2.** The setback requirements for parking areas serving public boat launching facilities, in districts other than the Commercial Fisheries I District may be reduced to no less than fifty (50) feet, horizontal distance, from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal or upland edge of a wetland described in Section 3 of this ordinance if the Code Enforcement Officer finds that no other reasonable alternative exists.

**15.7.2.** Parking areas shall be adequately sized for the proposed use and shall be designed to minimize runoff and erosion. Where feasible, runoff will be retained on site and prevented from flowing directly into a great pond, stream, tributary stream, coastal wetland or freshwater wetland.

**15.8. Roads and Driveways.** The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

**15.8.1. Roads** and driveways shall be set back at least seventy-five (75) feet, horizontal distance, from the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance, unless no reasonable alternative exists as determined by the Code Enforcement Officer. If no other reasonable alternative exists, the Code Enforcement Officer may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland.

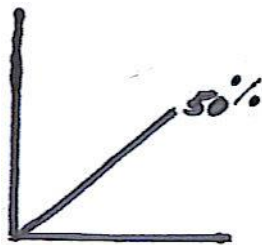
On slopes of greater than twenty percent (20%) the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above twenty percent (20%). This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

**15.8.1.1.** Section 15.8.1 does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15.8.1 except for that portion of the road or driveway necessary for direct access to the structure.

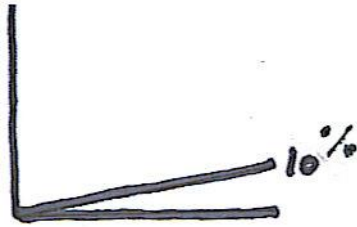
**15.8.2.** Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a great pond, stream, tributary stream, coastal wetland or freshwater wetland described in Section 3 of this Ordinance.

**15.8.3.** New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board upon finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the maximum high-water line of a great pond, stream, tributary stream, HAT of the coastal wetland or upland edge of a freshwater wetland described in Section 3 of this Ordinance.

**15.8.4.** Road and driveway banks shall be no steeper than a fifty percent (50%) slope and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Subsection 15.16.



**15.8.5.** Road and driveway grades shall be no greater than ten percent (10%) except for short segments of less than two hundred (200) feet.



**15.8.6.** In order to prevent road and driveway surface drainage from directly entering a great pond, stream, tributary stream, coastal wetland or freshwater wetland, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet, horizontal distance, plus two (2) times the average slope, in width between the outflow point of the ditch or culvert and the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or upland edge of a freshwater wetland described in Section 3 of this Ordinance. Surface drainage that is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

**15.8.7.** Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

**15.8.7.1.** Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

**15.8.7.2.** Drainage dips may be used in place of ditch relief culverts only where the road grade is ten percent (10%) or less.

**15.8.7.3.** On sections having slopes greater than ten percent (10%), ditch relief culverts shall be placed at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road or driveway.

**15.8.7.4.** Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

**15.8.8.** Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

**15.9. Signs.** The following provisions shall govern the use of signs in the Resource Protection, Shoreland Residential, Mitchell Field Marine Business, and Shoreland Business Districts, in addition to the Harpswell Sign Ordinance. The more stringent provisions shall apply. A permit must be obtained from the Codes Enforcement Officer.

**15.9.1.** Display signs relating to a business or to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed sixteen (16) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.

**15.9.2.** Name signs shall be allowed, provided such signs shall not exceed two (2) signs per premise and shall not exceed twelve (12) square feet in the aggregate.

**15.9.3.** Residential users may display a single sign not over five (5) square feet in area relating to the sale of the premises.

**15.9.4.** Signs relating to trespassing and hunting shall be allowed without restriction as to number, provided that no such sign shall exceed two (2) square feet in area.

**15.9.5.** Signs relating to public safety shall be allowed without restriction.

**15.9.6.** No sign shall extend higher than twenty (20) feet above the ground.

**15.9.7.** Signs may be illuminated only by shielded, non-flashing lights. In the Mitchell Field Business District, the shielding must prevent the light source from being seen from the water.

#### **15.10. Storm Water Runoff**

**15.10.1.** All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.

**15.10.2.** Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

#### **15.11. Subsurface Wastewater Disposal**

**15.11.1.** All subsurface sewage disposal systems shall be permitted and installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

**15.11.1.1.** Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the maximum high-water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance and



**15.11.1.2.** A holding tank is not allowed for a first-time residential use in the shoreland zone.

**15.11.2.** All new, replacement, renovated or expanded structures or uses generating waste, shall provide evidence of the type specified in 13.3.4. of the Basic Land Use Ordinance that an adequate wastewater disposal system can be constructed or that an adequate waste water disposal system already exists.

**15.11.3. Existing use - continuation of use:** The use of any legal system which exists on the effective date of this ordinance, or which had previously been approved for installation, may be continued without change except as may be specifically covered by the Maine State Plumbing Code or deemed necessary by the plumbing inspector, for the general safety and welfare of the occupants and the public.

**15.11.4. Change in use** - it shall be unlawful to make any change in the use of any system, or to erect, enlarge, or change the use of a structure that uses an existing system without the approval of the plumbing inspector and certification that such change does not result in any hazard to public health, safety, and welfare.

**15.11.5.** The minimum setback for new subsurface sewage disposal fields shall be not less than one hundred (100) horizontal feet from the maximum high-water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance. The minimum setback distances from a great pond, stream, tributary stream, coastal wetland or freshwater wetland described in Section 3 of this Ordinance for new subsurface sewage disposal fields shall not be reduced by variance.

**15.11.6.** Replacement systems shall meet the standards for replacement systems as contained in the Rules.

**15.11.7.** The owner of the proposed system may locate the system or components partially on property not owned or controlled by the owner of the system, provided that the owner of the property where the system is to be located executes an easement in perpetuity for the construction, operation, replacement, and maintenance of the system, giving the system's owner authorization to cross any land or right-of-way between the two parcels. The easement shall be filed and cross-referenced in the Registry of Deeds and the Codes Enforcement Office prior to issuance of a disposal system permit. The easement shall provide sufficient buffer around the disposal field and fill material extensions for future replacement and maintenance of the system.

***Citizen's Note:** The Town recommends that all new and replacement system owners install low-flow flushes and shower heads.*

## **15.12. Utilities and Essential Services**

**15.12.1.** Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors and above ground facilities must be located so as to avoid crossing open areas and scenic views as identified in the Comprehensive Plan.

**15.12.2.** The installation of essential services other than road side distribution lines is not allowed in a Resource Protection Zone, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists.

Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

**15.12.3.** No public utility, or utility company of any kind, may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

**15.12.4.** Damaged or destroyed public utility distribution and transmission lines, towers, and related equipment may be replaced without a permit. When replacement does occur, the damaged or destroyed public utility line, towers, and related equipment shall be removed within one (1) year.

**15.12.5.** Utilities in the Mitchell Field Marine Business District shall be installed underground unless the Planning Board finds as part of a subdivision or site plan review that underground installation is not feasible due to site or soil conditions or the nature of the utility.

### **15.13. Agriculture**

**15.13.1.** All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201-4209, as may be amended from time to time).

**15.13.2** Manure shall not be stored or stockpiled within one (100) feet horizontal distance of the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

**15.13.3.** New agricultural activities, not in existence before adoption of this Ordinance involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland Zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered a violation of this Ordinance.

***Citizens Note:** Assistance in preparing a soil and water conservation plan may be available through the Cumberland County Soil and Water Conservation District office.*

**15.13.4.** There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from a great pond, stream, tributary stream or coastal wetland; or within twenty-five (25) feet, horizontal distance, of the upland edge of a freshwater wetland described in Section 3 of this Ordinance. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

**15.13.5.** Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of a great pond, stream, tributary stream, and coastal wetland; within twenty-five (25) feet, horizontal distance, of a freshwater wetland described in Section 3 of this ordinance. Livestock grazing associated with on going farm activities, and which are not

in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

#### **15.14. Timber Harvesting**

**15.14.1.** Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of the shorelines of - great ponds, streams, tributary streams, coastal wetlands and freshwater wetlands as well as soil lying within great ponds, streams, tributary streams, coastal wetlands and freshwater wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of - the shoreline or area within a great pond, stream, tributary stream, coastal wetland or freshwater wetland occurs, such conditions must be corrected.

**15.14.2.** Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the maximum high-water line of any great pond, stream, tributary stream, the HAT of the coastal wetland or the upland edge of a freshwater wetland. Section 15.14.2 does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

- (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than four (4) feet above the ground.
- (b) Adjacent to great ponds, rivers and wetlands:
  - (i) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the maximum high-water line of a great pond, stream, tributary stream, HAT of the coastal wetland or upland edge of a freshwater wetland; and
  - (ii) Between fifty (50) feet and two hundred fifty (250) feet, horizontal distance, of the maximum high-water line of a great pond, stream, tributary stream or the HAT of the coastal wetland or upland edge of a freshwater wetland, all slash larger than three (3) inches in diameter must be disposed of in such a manner that no part thereof extends more than four (4) feet above the ground.

**15.14.3.** Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

- (a) Option 1 (forty percent (40%) volume removal), as follows:
  - (i) Harvesting of no more than forty percent (40%) of the total volume on each acre of trees 4.5 inches DBH or greater in any ten (10) year period is allowed. Volume may be considered to be equivalent to basal area;
  - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within seventy (75) feet, horizontal distance, of the maximum high-water line of a great pond, stream, tributary stream, the HAT of the coastal wetland and the upland edge of a freshwater wetland there must be no cleared openings. At distances greater than seventy (75) feet, horizontal distance, of the maximum high-water line of a great pond, stream, tributary stream, the HAT of the coastal wetland and the upland edge of a freshwater wetland, timber harvesting and related activities must not create single cleared openings greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed ten thousand (10,000) square feet, they must be at least one hundred (100) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option 2 (sixty (60) square foot basal area retention), as follows:

- (i) The residual stand must contain an average basal area of at least sixty (60) square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which forty (40) square feet per acre must be greater than or equal to 4.5 inches DBH;
- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- (iii) Within seventy five (75) feet, horizontal distance, of the maximum high-water line of a great pond, stream, tributary stream, the HAT of the coastal wetland and the upland edge of a freshwater wetland, there must be no cleared openings. At distances greater than seventy five (75) feet, horizontal distance, of the maximum high-water line of a great pond, stream, tributary stream, the HAT of the coastal wetland and the upland edge of a freshwater wetland, timber harvesting and related activities must not create single cleared openings greater than fourteen thousand (14,000) square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least one hundred (100) feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) or Planning Board, as applicable, for review and approval, which provides equal or better protection of the shoreland area than this Section 15.14.3. Until the statutory date established under 38 M.R.S.A §438-B(5), as may be amended, occurs, review and approval under Option 3 shall be by the Planning Board; thereafter, review and approval under Option 3 shall be by the Bureau.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5, as may be amended from time to time, which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau or Planning Board, as applicable, has approved the alternative method. The Planning Board may require a technical review fee as provided for in Section 12 of the Basic Land Use Ordinance to defray the cost of the Town's technical and outside consultant costs associated with Option 3 application review.

The Bureau or the Town, as applicable, may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

**15.14.4. Skid trails, yards, and equipment operation.** This requirement applies to the construction, maintenance and use of skid trails and yards in shoreland areas.

- (a) Equipment used in timber harvesting and related activities shall not use river, stream, tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a great pond, stream, tributary stream, coastal wetland or freshwater wetland. Upon termination of their use, skid trails and yards must be stabilized.
- (c) Setbacks:
  - (i) Equipment must be operated to avoid the exposure of mineral soil within twenty five (25) feet, horizontal distance, of any great pond, stream, tributary stream, coastal wetland or freshwater wetland. On slopes of ten percent (10%) or greater, the setback for equipment operation must be increased by twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above ten percent (10%). Where slopes fall away from the resource, no increase in the twenty five (25) foot setback is required.
  - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

**15.14.5. Land Management Roads.** Land management roads, including approaches to crossings of great ponds, streams, tributary streams, coastal wetlands and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the great pond, stream, tributary stream, coastal wetland or freshwater wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15.14.7 of this rule.

- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
  - (i) one hundred (100) feet, horizontal distance, from the maximum high-water line of a great pond, the HAT of the coastal wetland or upland edge of a freshwater wetland;
  - (ii) fifty (50) feet, horizontal distance, from the maximum high-water line of streams; and
  - (iii) twenty five (25) feet, horizontal distance, from the maximum high-water line of tributary streams
- (b) The minimum one hundred (100) foot setback specified in Section 15.14.5(a)(i) above may be reduced to no less than fifty (50) feet, horizontal distance, and the fifty (50) foot setback specified in Section 15.14.5(a)(ii) above may be reduced to no less than twenty five (25) feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (c) On slopes of 10 percent (10%) or greater, the land management road setback must be increased by at least twenty (20) feet, horizontal distance, plus an additional ten (10) feet, horizontal distance, for each five percent (5%) increase in slope above ten percent (10%)
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. § 437, as may be amended from time to time, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to

the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the maximum high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15.14.7. Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15.14.5(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15.14. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15.14.5(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the great pond, stream, tributary stream, coastal wetland or freshwater wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

**15.14.6. Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the ten (10) year and twenty five (25) year frequency water flows and thereby determining water crossing sizes as required in Section 15.14: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
- (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15.14. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the maximum high-water line or HAT must conform to the provisions of Section 15.14.
- (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
  - (i) a map showing the location of all proposed permanent crossings;
  - (ii) the GPS location of all proposed permanent crossings;
  - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15.14.6(g)) below. Streams and tributary



streams may be crossed using temporary structures that are not bridges or culverts provided:

- (i) concentrated water runoff does not enter the stream or tributary stream;
- (ii) sedimentation of surface waters is reasonably avoided;
- (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
- (iv) fish passage is not impeded; and,
- (v) water flow is not unreasonably impeded.

Subject to Section 15.14.6(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate ten (10) year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.

- (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15.14.6(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the maximum high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

- (iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of one (1) foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

- (iv) River, stream and tributary stream crossings allowed under Section 15.14, but located in flood hazard areas (i.e., A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a one hundred (100)-year flood event.
  - (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
- (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15.14.6(i) below.
  - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
- (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over

or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

- (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
- (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
  - 1. it shall be designed to provide an opening sufficient in size and structure to accommodate twenty five (25) year frequency water flows;
  - 2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
  - 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

#### **15.14.7. Slope Table**

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15.14, but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

#### **15.15. Clearing or Removal of Vegetation for Activities other than Timber Harvesting**

**15.15.1.** In a Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

**15.15.2.** Except in areas described in Section 15.15.1 and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from the normal high water line of a great pond, stream, tributary stream, HAT of the coastal

wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance, a buffer strip of vegetation shall be preserved as follows:

**15.15.2.1.** There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks, and/or shrub stems is permitted provided that a cleared line of sight to the water through the buffer is not created.

**15.15.2.2.** Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation, including existing ground cover, shall be maintained. For the purposes of this section a "well-distributed stand of trees" adjacent to a water body, tributary stream, or a wetland described in Section 3 of this Ordinance, shall be defined as maintaining a rating score of sixteen (16) or more in any twenty five by fifty (25x50) foot square area (1,250 square feet) as determined by the following rating system:

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - <4"	1
4 - <8"	2
8 - <12"	4
12" or greater	8

The following shall govern in applying this point system:

**15.15.2.2.1.** The twenty five (25) foot by fifty (50) foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

**15.15.2.2.2.** Each successive plot must be adjacent to, but not overlap a previous plot;

**15.15.2.2.3.** Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

**15.15.2.2.4.** Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

**15.15.2.2.5.** Where conditions permit, no more than fifty percent (50%) of the points on any twenty five (25) foot by fifty (50) foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of Section 15.15.2.2, "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each twenty five (25) foot by fifty (50) foot rectangle area. If five

(5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at four and one half (4-1/2) feet above ground level may be removed in any ten (10) year period.

In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in this section.

Pruning of dead tree branches on the bottom one-third (1/3) of trees is permitted.

In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Alternative plans in compliance with State of Maine Laws, developed by a licensed Maine Forester, may be submitted to the Planning Board for approval.

The provisions contained in paragraph 2 above do not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

**15.15.3.** At distance greater than seventy-five (75) feet, horizontal distance, from the maximum high water line of a great pond, stream, tributary stream, the HAT of the coastal wetland or the upland edge of a freshwater wetland described in Section 3 of this Ordinance, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty percent (40%) of the volume of trees four (4) inches or more in diameter, measured four and one half (4-1/2) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty percent (40%) calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared opening for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, twenty-five percent (25%) of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the Commercial Fisheries I and II Districts and Shoreland Business District when for a commercial use.

An alternative plan in accordance with Maine laws signed by a licensed Maine Forester may be presented to the Planning Board for approval.

**15.15.4.** Cleared openings legally in existence on the effective date of this ordinance may be maintained, but shall not be enlarged, except as permitted by this ordinance.

**15.15.5.** Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

## **15.16. Earthmoving, Erosion, and Sedimentation Control**

**15.16.1.** All activities that require a permit and involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

**15.16.1.1.** Mulching and re-vegetation of disturbed soil.

**15.16.1.2.** Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.

**15.16.1.3.** Permanent stabilization structures such as retaining walls or riprap. Permanent stabilization structures permitted by this section must be approved in advance, in writing, by the Code Enforcement Officer and shall be no larger than necessary to stabilize the area. No retaining wall shall be approved if there is an alternative method of stabilization available.

***Citizens Note:** The above does not apply to normal maintenance of existing private roads and driveways. Soil erosion and sedimentation of watercourses and water bodies may be minimized by an active program meeting the requirements of the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices", dated March 1991. A copy is on file in the Code Enforcement Office. Additional copies may be obtained from the Maine Dept. of Environmental Protection or the Cumberland County Soil and Water Conservation District.*

**15.16.2.** In order to create the least potential for erosion, development should be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

**15.16.3.** Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

**15.16.4.** Any exposed ground area shall be temporarily stabilized by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within one (1) year of the initial date of exposure. In addition:

**15.16.4.1.** Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

**15.16.4.2.** Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

**15.16.4.3.** Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

**15.16.5.** Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in

order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

**15.17. Soils.** All land uses shall be located on or upon soils in which proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during, on, or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses shall require a soils report based in an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, and Maine State Certified Geologists. The report shall include an analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data that the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

**15.18. Water Quality.** No activity shall deposit on or into the ground or discharge to the water of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of a great pond, stream, tributary stream, coastal wetland or freshwater wetland,

No activity shall locate, store, discharge or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances.

**15.19. Archeological and Historic Sites.** All proposed land use activities shall be designed to protect archeological and historic sites that have been identified in the Town's Comprehensive Plan, or by the Maine Historic Preservation Commission or the National Park Service. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or determined by the Maine Historic Preservation Commission to be eligible to be listed on, the National Register of Historic Places shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) business days prior to action being taken by the applicable permitting authority; provided, however, that the Code Enforcement Officer may, in the event of an emergency as determined by the Code Enforcement Officer, take appropriate action to allow only such limited land use activity as is necessary to protect the public health, safety and welfare in order to cure the emergency situation. The Town permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

**15.20. Home Occupations.** Home occupations are allowed in all zoning districts. Those home occupations that provide public restrooms or showers or that serve food to the public need a permit from the Code Enforcement Officer. In all cases, the home occupation will be in compliance with the State of Maine Subsurface Wastewater Disposal Rules. Except for home occupations related to commercial fishing, all home occupations, regardless of whether they are located within the Shoreland Zone, are subject to the performance standards of this section.

**15.20.1.** Any home occupation that involves a prohibited activity or use listed in Section 15.6 of this ordinance shall be prohibited.

**15.20.2.** A home occupation shall be accessory to a residential use and clearly incidental and secondary to the residential use of the dwelling unit.

**15.20.3.** Except for family and group day care homes, and bed and breakfast home occupations, no home occupation shall be located in more than one structure nor shall any one or more home occupation utilize more than twenty five (25%) of the gross floor area of the dwelling (excluding basement floor areas) if located in the dwelling or more than nine Hundred (900) square feet of gross floor area of the accessory structure if located in an accessory structure.

**15.20.4.** Any home occupation must be carried on by a resident or occupants of the dwelling unit. In addition to the resident or occupants of the dwelling unit, no more than two (2) full time employees, or part-time employees' equivalent to two (2) full time employees, may be employed in the home occupation. In Resource Protection districts within the Shoreland Zone, no more than one (1) full time employee, or that number of part-time employees required to do the work of one (1) full time employee, may be employed in the home occupation.

**15.20.5.** A home occupation shall not create a nuisance through generation of objectionable conditions such as noise, smoke, dust, odors, accumulation of animal waste, glare, or other nuisance conditions.

**15.20.6.** In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off street parking shall be provided for the vehicles of each employee and the maximum number of users the home occupation may attract during peak operating hours. Parking areas beyond those needed for the residential use shall be designed to minimize runoff and erosion. Where feasible runoff will be retained on site and prevented from flowing directly onto a neighboring property or into a water body.

**15.20.7.** A home occupation shall not generate substantially greater traffic volumes than would normally be expected in the neighborhood.

**15.20.8.** A home occupation may not generate special or hazardous waste in amounts larger than those normally associated with the residential use of the property.

**15.20.9.** A home occupation shall be compatible with the residential use of the property and surrounding residential uses.

**15.20.10.** Except for home occupations related to commercial fishing, Planning Board review and approval is required for home occupations in a Resource Protection District unless the home occupation:

- a) is carried on entirely within the residential dwelling unit on the property,
- b) has no employees other than the occupants of the dwelling unit,
- c) has no retail sales,
- d) generates no additional traffic than would normally be associated with the residential use of the property, and
- e) generates no special or hazardous wastes, as defined under Maine law.



## **15.21. Non-agricultural Fertilizer Use**

**15.21.1.** Chemical fertilizer, sludge or non-composted manure may be applied to within two hundred fifty (250) feet of the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland.

**15.21.2.** Organic fertilizer or composted manure may be applied to within twenty five (25) feet of the maximum high water line of a great pond, stream, tributary stream, HAT of the coastal wetland or the upland edge of a freshwater wetland.

**15.22. "In-Law" Apartments.** An apartment for a relative related by blood, marriage or adoption to the record owner(s) of the property may be added to any dwelling unit provided that (a) the property is owner-occupied; (b) a building permit is obtained; (c) all of the requirements of this Ordinance, with the exception of shore frontage, road frontage, and minimum lot size, are met; and (d) all requirements of the Maine Subsurface Wastewater Disposal Rules in accordance with 22 M.R.S.A. § 42, as may be amended from time to time, are met. The immediate removal of the "in-law" apartment shall be required upon discontinued use or occupation of the "in-law" apartment by the above-qualified relative of the record owner(s). The record owner(s) shall be responsible for informing the Code Enforcement Office when such use or occupation is discontinued. The record owner(s) shall annually register with the Code Enforcement Officer the legal name, mailing address and relationship to the record owner(s) of the relative occupying the "in-law" apartment and shall maintain a certificate of compliance with the Code Enforcement Officer. The Code Enforcement Officer shall have the right to inspect all "in-law" apartments to ensure compliance with this section.

## **15.23 Community Piers, Docks and Wharves**

**15.23.1.** Community piers, docks and wharves shall have a maximum width of 6 feet and shall not extend below the mean low water mark (not including ramps and floats). The proposed community pier, dock or wharf shall not otherwise prohibit or unreasonably impede legitimate passage along a beach or through navigation over the waters for recreational or aquacultural purposes.

**15.23.2.** For community piers, docks, and wharves located wholly within a subdivision, the sideline setbacks shall be ten (10) feet. For community piers, docks and wharves that abut a parcel located outside of the subdivision, the sideline setback from that adjoining parcel shall be increased to twenty five (25) feet. The Planning Board may permit the sideline setback to be reduced if the abutter(s) agree in writing and it is duly recorded in Cumberland County Registry of Deeds.

**15.23.3.** The applicant shall provide sufficient legal documentation to demonstrate right, title or interest in the location of the community pier, dock or wharf and that the community pier, dock or wharf will remain as a community pier, dock or wharf for the life of any such community pier, dock or wharf. The applicant shall submit to the Planning Board the proposed easement deed or declaration of protective covenants demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the use of the community pier, dock or wharf, which shall be reviewed by the Town Attorney as to form.

Upon approval by the Planning Board, the easement deed or declaration of protective covenants shall be recorded in the Cumberland County Registry of Deeds prior to the issuance of any building permit for the community pier, dock or wharf.

**15.23.4.** An area where the float(s), if any, will be stored shall be designated on the plan.

**15.23.5.** Parking areas shall be adequately sized for the number of lots to be served by the community pier, dock or wharf, with a minimum of one parking space for every three non-common open space lots within the subdivision to be served by the community pier, dock or wharf. Parking areas shall be designed to minimize runoff and erosion. Where feasible, runoff will be retained on site and prevented from flowing directly into the coastal wetland, stream, tributary stream, or freshwater wetland.

**15.23.6.** The design and construction shall not interfere with recreational intertidal lateral access.

**15.23.7.** The landward approach to a community pier, dock, or wharf shall minimize harm to vegetation on a coastal wetland, freshwater wetland or coastal bank.

**15.24. Swimming Pools.** All swimming pools, as that term is defined in 22 M.R.S.A. § 1631(2), shall comply with the fence enclosure requirements set forth in 22 M.R.S.A. §§ 1631-1632, as may be amended from time to time. Failure to do so shall constitute a violation of this Ordinance.

## **SECTION 16. ADMINISTRATION**

This Ordinance shall be administered and enforced in accordance with Sections 12, 13, and 14 of the Town's Basic Land Use Ordinance, as may be amended from time to time, and the Definitions Addendum, as may be amended from time to time.